



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of John Kiszka,
Correctional Police Officer JJC
(S9999U), Juvenile Justice

List Removal Appeal

CSC Docket No. 2019-3705

ISSUED: SEPTEMBER 7, 2020 (SDW)

John Kiszka appeals the removal of his name from the eligible list for Correctional Police Officer JJC (S9999U), Juvenile Justice on the basis that he failed to complete pre-employment processing.

The appellant, a non-veteran, took and passed the open-competitive examination for Correctional Police Officer JJC (S9999U), which had a closing date of August 31, 2016. The resulting eligible list promulgated March 29, 2017 and expired on May 14, 2020¹. The appellant's name was certified to the appointing authority on August 2, 2018, with a notice date of August 9, 2018. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he failed to complete pre-employment processing. Specifically, that he did not appear for his January 8, 2019 interview.

On appeal to the Civil Service Commission (Commission), the appellant asserts that he did not receive the interview notice. He also indicates his email was "@montclair.edu."

In response, the appointing authority maintains that it emailed the appellant his interview notice on December 26, 2018. In support, the appointing authority submits a copy of the December 26, 2018 to the appellant's email "@montclair.edu." It also submits a copy of the interview notice that was attached.

¹ Agency records indicate that the subject eligible list was extended to the new list (S9999A) promulgated on May 15, 2020.

CONCLUSION

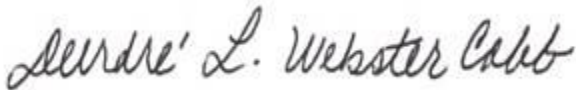
N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error. Moreover, there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed. See *SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). In the instant matter, the record indicates that the email notifying the appellant of the interview was not correct. In this regard, the email the appointing authority used was "@montclaire.edu" rather than "@montclair.edu". As such, and since the appellant has indicated that he does not recall receiving the email, he has successfully rebutted the presumption. Accordingly, the appellant has met his burden of proof in this matter and his name should be restored to the subject eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Correctional Police Officer JJC (S9999U), Juvenile Justice, be revived in order for appellant to be considered for appointment at the time of the next certification for prospective employment opportunities only.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 2ND DAY OF SEPTEMBER 2020



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